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Blackbird Tech LLC d/b/a Blackbird Technologies*

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

BLACKBIRD TECH LLC d/b/a
BLACKBIRD TECHNOLOGIES,

Plaintiff,

v.

HEALTH IN MOTION LLC, AND
LEISURE FITNESS EQUIPMENT LLC,

Defendants.

CASE NO. 2:17-cv-03488-R-GJS

ORDER RE DISMISSAL

HON. MANUEL L. REAL

ORDER

On October 20, 2016, Plaintiff Blackbird Tech LLC, filed a Complaint alleging that Health in Motion LLC and Leisure Fitness Equipment LLC (collectively “Defendants”) infringed upon U.S. Patent No. 6,705,976.

On December 23, 2016, Plaintiff Blackbird Tech LLC, filed a First Amended Complaint alleging that Defendants infringed upon U.S. Patent No. 6,705,976. (Dkt. 11).

On January 13, 2017, Defendants filed an Answer to the First Amended Complaint and a Counterclaim with the following Counts: (1) Declaration of Non-Infringement and (2) Declaration of Award of Attorneys’ Fees, Costs, and Expenses. (Dkt. 14).

On May 28, 2018, Plaintiff Blackbird Tech LLC, filed a Notice of Voluntary Dismissal, dismissing all of its claims with prejudice (Dkt. 88).

On May 28, 2018, Plaintiff Blackbird Tech LLC, executed a Covenant Not to Sue Defendants, Defendants’ customers and others for any claims relating to U.S. Patent No. 6,705,976. (Dkt. 87-3).

On May 28, 2018, Plaintiff Blackbird Tech LLC, filed a Motion to Dismiss for Lack of Subject Matter Jurisdiction (“Motion to Dismiss), in light of the simultaneously filed Covenant Not to Sue. (Dkt. 87).

On June 11, 2018, Defendants filed a Statement of Non-Opposition to Plaintiff’s Motion to Dismiss.

Upon consideration of the above, including without limitation, Plaintiff’s Notice of Voluntary Dismissal, Plaintiff’s Motion to Dismiss, Plaintiff’s Covenant Not To Sue, Defendants’ Statement of Non-Opposition to Plaintiff’s Motion to Dismiss and the parties’ Joint Stipulation to enter this [Proposed] Order Re: Dismissal, IT IS HEREBY ORDERED that, pursuant to FRCP 41(a)(2), Plaintiff’s claims are dismissed with prejudice and Defendants’ counterclaims are dismissed

1 without prejudice. Notwithstanding this Order, Defendants may seek to recover their
2 costs, expenses, and/or attorneys' fees, which the Court retains jurisdiction to
3 consider and rule on.

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5 DATED: June 15, 2018

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8 The Honorable Manuel L. Real
9 United States District Court Judge
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